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November 21, 1996

Federal Communications Commission
1919 M Street N.W.
Washington. D.C. 20554

Attn : Secretary, F.C.C.

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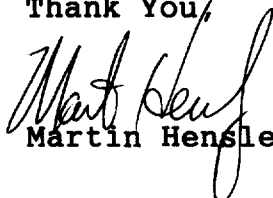
DOCKET FILE COPY ORIGINAL

Dear Sir/Madam,

Enclosed please find an original and four copies of
Reply Comments concerning MM Docket # 87-268.

Please forward them to the Mass Media office ahndling
these comments.

Thank You,


Martin Hensley

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter Of)
Advanced Television Systems)
and Their Impact upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

Reply Comments

Comes now before the Commission Martin Hensley, (hereinafter referred to as "Hensley"), a resident of Indianapolis, Indiana. Hensley is involved and has been involved in the construction and operation of several Low Power Television Stations and receives income from Low Power Television Station(s). In the event Low Power Stations are deleted as a result of Advanced Television Allotments, Hensley sees a future loss of income as a result of the possible deletions and is a party in interest to the above referenced proceeding.

Hensley is currently employed by W53AV Television. Channel 53 is the first Low Power Television Station in Indianapolis still in operation. On the air in 1994, Channel 53 provides a diversity of programming to the Indianapolis community and is minority owned and operated.

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In the "Report and Order" the Commission provides several possible remedies for Low Power Stations affected by the allocation of new Advanced Television Stations but does not indicate absolute relocation for ALL Low Power Television Stations.

Hensley requests the Commission adopt the following guidelines which would resolve many, if not all, of the relocation problems facing Low Power Stations as a result of the Advanced Television Broadcast Service:

- 1) REQUIRE that all new Advanced Television Stations NOT be constructed until such time as their current Broadcast License be tendered for refarming or new use by Low Power Stations. This would require them to use the new allotments rather than keep them as a commodity to be held and used at a future date. This would also keep a Full Power Station from forcing a competing Low Power Station off the air to construct an Advanced Television Station which might simply be constructed to hold a channel.
- 2) REQUIRE that all Broadcast Stations NOT be allowed to SIMULCAST their current programming on their newly allocated Advanced Television Broadcast Channel. This would require the current licensees to use the channels as a separate entity rather than simply SIMULCAST their current

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programming and hold the Advanced Television Channel for use at a future date. This would also keep a Full Power Station from forcing a competing Low Power Station off the air to simply SIMULCAST their current programming.

3) REQUIRE Advanced Television Stations which conflict with current allotments to provide another channel with EQUAL coverage to for the Low Power Station to utilize and REQUIRE Advanced Television Stations to cover ALL costs associated with moving and constructing the Low Power Station on the new channel. This would keep the Full Power Station from simply constructing to remove a Low Power competitor.

4) CREATE a dispute settlement or arbitration mechanism to resolve local interference and displacement issues fairly and equitably. This removes a costly Court encounter for the Low Power Station which may not have the money of a Full Power Station due to their local coverage which is a result of their license classification. This also acknowledges the problem is through no fault of the Low Power Station and the resolution should not be one which puts unnecessary costs for resolution on the Low Power Station.

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- 5) CREATE a new set of Engineering Standards which provides compatible interference standards for Low Power and Full Power Stations relevant to the new technology employed in the Advanced Television Receivers. If every one is on the same playing field there will be ample room to allow for current Low Power stations to continue to operate.
- 6) RELAX Engineering Standards employed to reflect the new Advanced Television Standards. Again, all stations should be on an equal playing field which reflects new technology.
- 7) Allow Low Power Stations to relocate to Full Power Channels without having to compete with other applicants for these new channels in their immediate area. This could involve the opening of a filing window which would also specifically for Low Power Stations. This application process would also allow Defective Applications to be corrected by the Low Power Licensee.
- 8) In the event the Low Power Station could not be relocated, allow for generous government credits, in the form of taxation exemptions, or filing preferences for future licenses, which would exceed the "stick value" of the station and fully compensate the licensee for the loss of the Low Power

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Station and it's operation.

9) Upgrade Low Power Stations to another class of a Full Power station. In this manner the stations now "at risk" or "in jeopardy" of losing their license will not face future risk of license loss due to upgrades of Full Power Stations or other changes which would displace Low Power Stations.

In addition, Hensley believes the Final Order in this matter should be reviewed by the Department of Justice, ("DOJ"), to determine if violations of any "restraint of trade" laws or similar laws will be violated by the potential removal of hundreds or thousands of Low Power Stations.

The "Report and Order" only provides data and information relevant to the Full Power Stations being provided an additional Advanced Television Allotment and DOES NOT ADEQUATELY ADDRESS the LOSS of Low Power Stations and their impact on either the LICENSEE or the PUBLIC.

The "Report and Order" has not provided data on the actual number of Low Power Stations which would go silent as a result of the "Order" the Commission will likely make. It does indicate the possibility in excess of 50% of Low Power Stations may not be accomodated by the Advanced Televesion Allottments. The number of "voices" or "differing opinions"

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being silenced may vary from market to market but nonetheless many will go silent.

The "Report and Order" addressed Land Mobile Sharing in as much detail as Low Power and TV Translator Stations even though it's impact will not adversely affect as many end users. In addition, land mobile end users should not be considered as relevant as members of the viewing public served by low Power Television.

The Commission has long considered ratings when evaluating the percentage of stations which can be owned in a specific market. The Department of Justice uses this in evaluating ownership limits in specific markets. At the present time many of those who provide ratings services do not consider or will not list Low Power Television Stations in their rating services. For this reason the Commission SHOULD consider the number of potential viewers which would loose programming if Low Power Stations are forced off the air.

In the Indianapolis area there are two Low Power Stations which have been designated as Advanced Television channels. Channel 53 and Channel 27 have been designated for use by Full Power Advanced Television.

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Both stations serve approximately the same area. Currently, based on population estimates, Marion County, the area served by both Channel 53 and Channel 27, has over 675,000 persons in the County over the age of 12.

The Advanced Television proposal considers Full Power Stations and their coverage based on potential viewers but does not even consider replacing Low Power Stations and the loss of service to their viewers in even one major city. For this reason the "Report and Order" is flawed in that Low Power and Full Power Stations are different classifications but no delineation can be made between Low Power and Full Power viewers therefore the Public and the Public Good are not being served by the Advanced Television "Report and Order."

Another factor which has not been presented is the actual implementation of Advanced Television. Manufacturers will surely benefit and have been the ramrods behind the proposed new technology. The average television has a 20 year life span. I have yet to meet a television viewer who is excited at the prospect of replacing his three or more television sets. Most of the Public is not aware that they will have to replace their television and many will not until they have nothing to watch on their sets.

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CONCLUSION

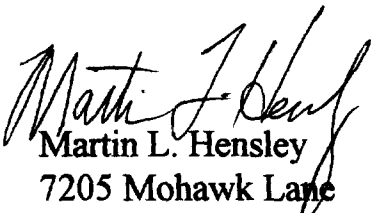
For the reasons outlined in the associated "Reply Comments" Hensley feels that the impact on Low Power Television interests have not been fully addressed and should be further considered before the implementation of the Advanced Television Allotments.

Hensley feels the affect on the Viewing Public has not been considered in respect to the implementation and cost of a new system and these concerns should be addressed prior to the implementation of the Advanced Television Allotments.

Hensley feels the impact on specific markets and the control which will be lost as a result of Low Power Television Stations going silent should be considered and thoroughly investigated by the Department of Justice prior to ANY proceeding which would silence Minority Low Power Stations nationally and specifically in the case of Channel 53, an Indianapolis Low Power Television Station which is minority owned and operated.

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Respectfully Submitted November 21, 1996


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